### **REMARKS**

This amendment is in response to the Office Action dated May 27, 2005. Reconsideration of this application, as amended, is respectfully requested.

# I. Status of the Claims:

Claim 1 has been amended. No new matter has been added by way of this amendment.

Claims 22-26 have previously been withdrawn.

Claims 1-26 are currently pending and claims 1-21 are presented for examination.

# II. Telephone Interview:

Applicants would like to thank Examiner Miggins for all of the courtesies extended in the telephone interview held on August 30, 2005, with Louis DelJuidice. Applicants would like to thank the Examiner for discussing the above referenced application and for discussing the "New Objection" set forth in the Office Action dated May 27, 2005.

### III. Objections to the Claims:

Claims 1-21 are objected to due to informalities. The Examiner states that the description of the polyester-based elastomer, in lines 2-5 of claim 1 is indefinite. The Examiner contends that the recitation of "a... performance test" is unclear and that it is impossible to determine the scope of the claim if it does not properly recite the limitations to be met when infringing it. Applicants respectfully traverse the objection.

Description of the performance tests recited in claim 1 is provided in the Specification. An example of a shape retainability performance test is illustrated from page 12, line 21 to page 13 line 13. This is followed by a description of a dimensional stability performance test

from page 13, line 14 to page 14, line 8. Additionally, an example of a flexibility retainability performance test is described from page 14, line 9 to page 15, line 1. Thus, claim 1 is not indefinite as the limitations are properly recited. Claims 2-21 depend from claim 1 and are patentable for at least the same reasons as claim 1. Applicants respectfully request that the objection be withdrawn.

## IV. Rejections Under 35 U.S.C. 103

Claims 1-2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,380,571 to Ozawa et al. ("Ozawa") in view of the Examiner's knowledge of ordinary skill in the art. The Examiner states that Ozawa teaches tubes having inner and outer layers of polyester elastomers. The Examiner admits that Ozawa fails to teach the properties recited in claim 1 but contends that it would have been obvious at the time the invention was made to employ polyesters having suitable physical properties in the Ozawa tubes in order to tailor the tube's properties to the use for which they are intended. Applicants respectfully traverse the rejection.

Amended claim 1 recites "a heat-resistant plastic tube comprising: a polyester-based elastomer including at least one of a polyester-polyester block copolymer with a hard segment component and a soft segment component and a polyester-polyether block copolymer with a hard segment component and a soft segment component." Ozawa neither discloses nor suggests a plastic tube including the chemical compositions recited in claim 1. Thus, claim 1 is not obvious in view of Ozawa. Claim 2 depends from claim 1 and should patentable for at least the same reasons as claim 1.

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,294,234 to Kertesz in view of the Examiner's knowledge of ordinary skill in the art. The Examiner states that Kertesz discloses all of the features of the invention except the properties recited in claim 1. The Examiner contends that it would have been obvious at the time the invention was made to employ polyesters having suitable physical properties in the Kertesz tubes in order to tailor the tube's properties to the use for which they are intended. Applicants respectfully traverse the rejection.

As discussed above, amended claim 1 recites "a heat-resistant plastic tube comprising: a polyester-based elastomer including at least one of a polyester-polyester block copolymer with a hard segment component and a soft segment component and a polyester-polyether block copolymer with a hard segment component and a soft segment component." Kertesz neither discloses nor suggests a plastic tube including the chemical compositions recited in claim 1. Thus, claim 1 is not obvious in view of Kertesz. Claims 2-15 depend from claim 1 and should patentable for at least the same reasons as claim 1.

Claims 16-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kertesz as applied to claims 1-15 and further in view of U.S. Patent No. 5,960,977 to Ostrander et al. ("Ostrander"). Applicants respectfully traverse the rejection. Claims 16-21 depend from claim 1 and should be patentable for at least the same reasons as claim 1.

Thus, the claimed heat-resistant plastic tubes are neither disclosed nor suggested by Ozawa, Kertesz or Ostrander. Applicants respectfully request that the rejections be withdrawn.

### **CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Further, if claims 1-21 are passed to allowance, Applicants respectfully request that claims 22-26 be rejoined and also passed to allowance. However, if there are any questions regarding this amendment, or the application in general, a telephone call to the undersigned would be appreciated since this would expedite the prosecution of the application for all concerned.

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Respectfully submitted,

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